

**FORM
N-309**
(REV. 1995)

CORPORATION APPLICATION FOR TENTATIVE REFUND FROM CARRYBACK OF NET OPERATING LOSS

File this Application Separately from Your Income Tax Return to Insure Prompt Action

Name	Federal Employer I.D. No.	1. Enter the loss year and amount of net operating loss.
Number and Street	Check method of accounting: (1) Cash <input type="checkbox"/> (2) Accrual <input type="checkbox"/> (3) Other (attach explanation) <input type="checkbox"/>	Year Ended
City or town, State and ZIP Code		Amount \$
		Decrease in Tax \$
		(Line 27 below)

2. Date the return was filed for the year of the net operating loss
District Office with which filed

3. Was a consolidated return filed for the taxable year specified in item 1? Yes ☐ No ☐

4. (a) Preceding taxable year ended (years affected by the carryback)	(b) Office in which return was filed	(c) Amount of any unpaid taxes (Specify type)	(d) Name shown on original return	(e) Was a consolidated return filed?	
				Yes	No
3rd					
2nd					
1st					

5. Was an extension of time granted for filing the return for the year of the net operating loss? Yes ☐ No ☐
If "Yes," give date to which extension granted.

6. If there has been a change in your accounting period, give date permission to change was granted.

7. Date of incorporation

8. If this is an application of a dissolved corporation, give date of dissolution.

9. Have you filed an appeal in the Tax Appeal Court for the year or years to which the loss is to be applied? Yes ☐ No ☐

COMPUTATION OF DECREASE IN TAX	Third preceding taxable year ended		Second preceding taxable year ended		First preceding taxable year ended	
	(a) Return as filed or liability as last determined	(b) Liability after application of carryback	(c) Return as filed or liability as last determined	(d) Liability after application of carryback	(e) Return as filed or liability as last determined	(f) Liability after application of carryback
10. Taxable income before deducting line 11						
11. Net operating loss deduction resulting from carryback (see Instr.)						
12. Line 10 minus line 11						
13. Net capital gain						
14. Line 12 minus line 13						
15. Tax on line 13 (see Instr. C)						
16. Tax on line 14 (see Instr. C)						
17. Line 15 plus line 16						
18. Tax on line 12 (see Instr. C)						
19. Income tax (enter lesser of line 17 or line 18)						
20. Non-refundable tax credit(s)						
21. Line 19 minus line 20, but not less than zero						
22. Recapture of tax credit(s)						
23. Line 21 plus line 22						
24. Refundable tax credit(s)						
25. Balance of tax liability (or overpayment)(difference between lines 23 and 24)						
26. Enter amounts from line 25, columns (b), (d), and (f)						
27. Decrease in tax (line 25 minus line 26)						

I declare, under penalties set forth in section 231-36, HRS, that I have examined this application, including any accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature of Officer or Agent

Title

Date

INSTRUCTIONS

Note: A corporation may elect to carry forward a net operating loss instead of first carrying it back by attaching a statement to this effect on a timely filed return (including any extensions) for the year of the loss. Once you make such an election, it is irrevocable for that tax year. The carry forward is limited to 15 years for losses occurring during taxable years beginning after December 31, 1981, whether or not a carryback is used first. Do not attach Form N-309 to your income tax return.

A. WHO MUST FILE AN APPLICATION.—An application for a tentative carryback adjustment may be filed on this form by any corporation which desires a quick refund of taxes which are affected by the carryback of a net operating loss. This does not apply to an S corporation which elects the tax treatment provided by IRC section 1372(a).

With respect to a net operating loss incurred for a taxable year ending after December 31, 1977, the taxpayer has an option on whether or not to carry a loss back first before carrying it forward. *This form should only be used by those taxpayers choosing to carry their losses back.*

B. TIME AND PLACE FOR FILING.—This form must be filed with the district office with which the corporation is required to file its income tax return, and must be filed on or after the date of filing of the return for the taxable year of the net operating loss and within 12 months from the end of such taxable year. Do not attach this form to your income tax return.

IF YOU FAIL TO MEET THE FOREGOING LIMITATION, YOU MAY FILE AN AMENDED RETURN WITHIN THREE YEARS OF THE DUE DATE PRESCRIBED FOR FILING THE RETURN, INCLUDING EXTENSIONS, FOR THE NET OPERATING LOSS YEAR OR THE PERIOD AGREED TO UNDER A WRITTEN EXTENSION OF TIME, WHICHEVER IS LATER.

C. RECOMPUTATION OF TAX LIABILITY.—Enter in columns (a), (c), and (e) the tax for the applicable carryback year as shown on the original or amended return. If the return was examined, enter amounts that were determined as a result of the examination.

To arrive at the decrease in the tax previously determined, recompute the tax after taking the carryback(s) into account. Form N-30 and instructions for the applicable year will be helpful in making this recomputation. Attach a detailed computation of the new tax liability shown on lines 15, 16, and 18.

Deductions that are limited by taxable income are to be recomputed after carryback of a net operating loss. The deduction for charitable contributions, however, is computed without regard to any carryback. Attach a schedule showing the recomputation. Also, credits based on or limited by the tax must be recomputed on the basis of the tax liability after application of the carrybacks.

D. NET OPERATING LOSS DEDUCTION.—Generally, a net operating loss must be carried back to each of the 3 tax years before the year of the loss. Special rules apply for any part of a net operating loss attributable to a foreign expropriation loss, a product liability loss, and certain other losses. (See IRC section 172(b) and related regulations for details.)

All adjustments required to compute a net operating loss that may be carried back to any year must be shown on a separate schedule. A copy of page 1 of Form N-30 for the loss year may be attached instead. Hawaii Tax Law does not allow the carryback of net capital losses.

The term “net operating loss” means the excess of allowable deductions over gross income, computed with the following modifications: (1) no net operating loss deduction is allowed; (2) the special deductions allowed certain corporations under section 235-7(c), HRS, shall be computed without regard to IRC section 246(b)(1) if the special deductions under IRC section 243 are allowed for federal purposes by reason IRC section 246(b)2; and (3) there shall be included in gross income the amount of interest which is excluded from gross income by section 235-7(a), HRS, decreased by the amount of interest paid or accrued which is disallowed as a deduction by section 235-7(e), HRS. All adjustments required to compute a net operating loss which may be carried back to any year must be shown on a separate schedule.

E. ALLOWANCE OF ADJUSTMENT.—The director will act on this application within a period of 90 days from whichever of the following two dates is the later:

- (1) The date on which the application is filed; or
- (2) the last day of the month in which falls the last date prescribed by law (including any extension of time granted) for filing the return for the taxable year of the net operating loss from which the carryback results.

F. DISALLOWANCE OF APPLICATION.—Any application which contains material omissions of computation errors which the director deems cannot be corrected within a 90-day period may be disallowed. This application for a tentative carryback adjustment does not constitute a claim for credit or refund. If this application is disallowed in whole or in part, no suit based thereon may be maintained in any court for the recovery of any tax. The taxpayer may, however, file a regular claim for credit or refund on Form N-30X (corporation amended return) at any time before the expiration of the applicable period of limitation.

G. EXCESS ALLOWANCES.—Any amount applied, credited, or refunded on the basis of this application which is later determined by the department to be excessive may be assessed as a deficiency as if it were due to mathematical or clerical error appearing on the return.

H. LINE 4, COLUMN (c).—If the amount of any tax for any taxable year specified in column (a) of line 4 is unpaid, including any installment not yet due, at the date of filing the application, enter the unpaid amount of such tax and specify the kind of tax or taxes.

I. LINE 11.—For accrual basis taxpayers, a reduction of the net operating loss deduction representing the tax benefit derived from the original state income tax expense deduction is required. Attach a separate schedule showing your computation.

J. LINE 20.—The non-refundable tax credits are the credit for solar, wind energy devices, heat pumps, and ice storage systems; enterprise zone tax credit; low-income housing tax credit; and the credit for employment of vocational rehabilitation referrals.

K. LINE 22.—Enter any recapture of the capital goods excise tax credit, and the low-income housing tax credit.

L. LINE 24.—The refundable tax credits are the capital goods excise tax credit, and the fuel tax credit for commercial fishers.